



Comments by CONNECT
Submitted to the Federal Communications Commission
related to the
Framework for Broadband Internet Service, Notice of Inquiry, GN Docket No. 10-127
July 15, 2010

Summary:

CONNECT's mission is to propel creative ideas and emerging technologies to the marketplace by connecting entrepreneurs with the comprehensive resources they need to sustain viability and business vibrancy. That mission could be thwarted if the Federal Communications Commission does not exercise regulatory restraint as it considers reclassification of broadband Internet services under Title II. The legal, policy and practical uncertainties that are inevitable if restraint is not exercised are likely to dampen Internet-related innovation at multiple levels. In the absence of a clear market failure or demonstrated competitive inequity, CONNECT respectfully requests that the Commission exercise restraint in reclassifying broadband services. Instead, the Commission should continue its successful advancement of its four policy principles to encourage broadband deployment and promote the open and interconnected nature of the public Internet.

Introduction:

CONNECT is a nonprofit organization, birthed out of the University of California—San Diego, that is dedicated to creating and sustaining the growth of innovative technology and related businesses. Since 1985, CONNECT has assisted in the formation and development of over 2,000 companies and is widely regarded as one of the world's most successful regional programs linking inventors and entrepreneurs with



the resources they need for success. CONNECT focuses on research institution support, business creation and development, entrepreneurial learning, access to capital, protection of intellectual property, public policy advocacy, awards, recognition and networking. More than 40 countries and regions have adopted the CONNECT model, including New York City, the U.K, Sweden, Norway, Denmark, Australia and India.¹

As a leading voice in the innovation community, CONNECT believes it is compelled to add its unique perspective to the voices being heard by the Commission. CONNECT heartily commends the Commission for its transparency and openness in its deliberations. CONNECT hopes the Commission will appreciate the cautions expressed herein and will only advance policies that the innovation community agrees will clearly promote further expansion of broadband-related services.

I. The legal and policy consequences of reclassifying broadband services under Title II will result in uncertainty which can only hinder investment in emerging technologies.

A major factor the Commission should consider is the certain consequence that enacting a reclassification rule will prompt protracted litigation. As the litigation lingers through the federal court system, probably reaching the U.S. Supreme Court, investment and technology development stakeholders will not have a fixed legal or policy framework upon which to build their innovation strategies.

Broadband technology innovators and investors need more than the promise of "light touch" regulation, but need regulatory restraint that only acts when faced with a clear market failure or demonstrated competitive inequity. Contrary to the scores of "Chicken Little" predictions over the years, broadband Internet services have not been subject to the detrimental management practices that have been forecast. In this tech savvy culture and 24/7 news, blog, and Twitter cycle, corporate actors have no

¹ To learn more, go to www.CONNECT.org



competitive choice but to accede to consumer demands to manage networks in an open fashion that promotes global interconnectedness.

Intensifying the legal uncertainty that technology investors will face, is an already existing climate less and less friendly to the business supports that uphold innovation. Taking a step back from the reclassification that the Commission might undertake, the federal policy landscape is replete with legislative and regulatory undertakings that further compound investor uncertainty. *Because it is well accepted that uncertainty and legal instability are mortal enemies to the innovation process, the Commission should refrain from opening another front against the beleaguered investment community.*

II. The practical consequences of reclassifying broadband services under Title II will result in operational uncertainty which can only hinder technological innovation.

One of the unique benefits of working to catalyze innovation is that CONNECT gets to regularly interact with the creative talent of modern day Edisons. Innovation is thriving in America, with broadband Internet access serving as a critical component of the innovative formula. If one surveys our current technology lexicon, one will find terms that were either non-existent or rare just a few years ago. Terms like:

- Cloud computing
- Texting
- Nanotechnology
- 3G and 4G
- PDF Attachment
- App
- Wireless healthcare
- Twitter
- Synthetic cell
- Mobile TV/music
- E-book
- Download/Upload

This global technological lexicon seems to almost constantly transform at a withering pace that is nothing short of astounding. As recent history reveals, even the best technology prophets cannot confidently foretell what the next 18 months, three



years or decade hold for new technology creations and broadband dependent interactivity.

However, if clouds of uncertainty darken the operational framework on which broadband-dependent applications are developed, our lexicon will stagnate as developers are forced to guess what rules will govern them as they attempt to leverage broadband-enabled designs. It is a harsh reality for a tech savvy policymaker to accept, but technology innovations simply move at warp speeds beyond what legislative or regulatory bodies can hope to attain, even in optimal political settings. The Commission should also consider the practical hazards that often manifest when those being regulated try to technologically implement regulatory verbiage.

Conclusion:

Because the legal, policy and practical consequences of reclassifying broadband services under Title II are likely to inject uncertainty into the innovation process which will hamper emerging technologies, and in the absence of a clear market failure or demonstrated competitive inequity demanding intervention, CONNECT respectfully requests that the Commission forego the reclassification effort and instead focus its attention on protecting the Commission's four policy principles. In the alternative, the Commission should delay promulgating rules until Congressional activity concerning broadband services is exhausted.

Respectfully submitted,

CONNECT, by:

Timothy Tardibono

Timothy Tardibono, M.A., J.D.
Policy Director & Chief Counsel
timothy@connect.org
202.412.7791 (cell)
202.974.6366 (office)